



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

April 15, 2013

Ruth Hamilton Heese
Department of Law
Office of the Attorney General
State of Alaska
P.O. Box 110300
Dimond Courthouse, 6th Floor
Juneau, AK 99811-0300

Re: Freedom of Information Act Requests 10-FOI-00264-12 and HQ-FOI-01421-12

Dear Ms. Hamilton Heese:

This is in response to your Freedom of Information Act (FOIA) requests first received by the U.S. Environmental Protection Agency (EPA) on May 31, 2012, and subsequently modified on September 3, 2012, regarding potential large-scale mining in the Bristol Bay watershed, Alaska.

As you are aware, the EPA has already provided you with several interim responses to your FOIA requests:

1. On April 17, 2012, EPA provided you with a link to the Bristol Bay FOIA Reading Room. This Reading Room contains copies of all formal correspondence between EPA and external parties, including all FOIA requests we have received and our cover letter responses to those requests. The Reading Room also contains a summary of the emails sent to EPA's Bristol Bay mailbox. EPA tries to update the Reading Room on a regular basis so that you may continue to have access to formal correspondence.
2. On October 10, 2012, EPA and the State agreed for purposes of responding to your FOIA that: a) for purposes of external communications, EPA would provide you with all communications between EPA and external parties that were responsive to your original FOIA requests; and b) for purposes of internal communications, you modified the requests to only internal email communications "since January 2009 regarding the idea to use preemptive veto authority...that involve one or more of the following: [list of 16 names]."
3. On November 2, 2012, EPA provided you with an interim response to your FOIA requests that included "the communications EPA has shared with the US House of Representatives Committee on Oversight and Government Reform on Bristol Bay regarding: emails and written communications between 14 EPA employees and non-federal external parties regarding the Bristol Bay watershed assessment and the possible application of Section 404 of the Clean Water Act to mining activities in the area."

4. On December 17, 2012, EPA provided you with another interim response to your FOIA requests that included the remaining communications in the external database that were responsive to your original FOIA requests.

Enclosed with this letter are the remaining releasable records responsive to your requests. The following records are exempt from mandatory disclosure and are withheld by virtue of 5 U.S.C. § 552(b)(5)) as interagency or interagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency, including deliberative process privilege, attorney-client privilege, attorney work product:

- 3,124 pages under FOIA Exemption 5, attorney-client privilege;
- 41,760 pages under FOIA Exemption 5, deliberative process privilege. Please note that over 20,000 of these pages are draft versions of the Bristol Bay Watershed Assessment itself and its appendices.

The EPA is also enclosing with this response an itemized invoice for **\$392.80** and payment instructions. As you have discussed with the EPA in the past, and in accordance with 40 C.F.R. § 2.107(c), as a requester in the “other” fee category, you receive two hours of search time and 100 pages without charge. For purposes of these requests, you are charged for the following EPA activities:

- Search and duplication costs associated with processing EPA’s communications with external parties on Bristol Bay;
- Search and duplication costs associated with processing internal email communications between Richard Parkin and Phil North and other EPA employees since January 2009 regarding the idea to use preemptive veto authority at Bristol Bay.

You have the right to appeal this determination. Submit your written appeal to the National Freedom of Information Officer at U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOI number listed above. For quickest possible handling, the appeal letter and its envelope should be marked “Freedom of Information Act Appeal.”

If you have any questions regarding this determination, please contact Cara Steiner-Riley, the EPA attorney handling this matter at (206) 553-1142 or by email at steiner-riley.cara@epa.gov. This concludes the EPA's response to FOIA number 10-FOI-00264-12 and HQ-FOI-01421-12 1.

Sincerely,

Linda Anderson-Carnahan, Acting Director
Office of Ecosystems, Tribal and Public Affairs

Enclosures

cc: Sheila Eckman, EPA
Stephanie Kercheval, EPA FOIA